

REMARKS

Claims 1-9 are presently pending in the application.

At the outset, Applicants note the Examiner's indication that several of the Japanese references cited in an Information Disclosure Statement were not considered because no English translations of these reference were submitted. However, since the European or PCT counterparts of each of these Japanese references have been considered by the Examiner, these Japanese references are merely cumulative prior art and need not be considered.

In the Office Action, the Examiner has rejected claims 1-9 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,569,818 of Nakazato ("Nakazato") in view of U.S. Patent No. 6,764,982 of Bardasz ("Bardasz"). The Examiner argues that Nakazato teaches a lubricating oil composition having a low phosphorus content of 0.01 to 0.1 weight %, a sulfur content of 0.01 to 0.3 weight %, and a sulfated ash in an amount of 0.1 to 1 weight % which comprises: (a) a major amount of mineral base oil having a low sulfur content of at most 0.1 weight %, (b) an ashless alkenyl or alkyl-succinimide dispersant or derivative thereof in an amount of 0.01 to 0.3 weight % in terms of nitrogen content, and (c) a metal-containing detergent such as an alkali metal or an alkaline earth metal salt of an alkylsalicylic acid in an amount of about 0.2 to 7 weight %. The composition may allegedly include other metal detergents, such as sulfonate detergents, a zinc dialkyl-dithiophosphate in an amount of 0.01 to 0.1 weight % in terms of phosphorus content, and (e) an oxidation inhibitor which may be a phenol compound or an amine compound in an amount of 0.01 to 5 weight %. The Examiner argues that Nakazato teaches that the lubricating oil composition may be used in internal combustion engines, including gas engines.

The Examiner acknowledges that Nakazato does not teach or suggest the claimed specific phosphorus acid ester compound, a triphosphate of formula (1). However, the Examiner argues that Bardasz teaches that such compounds are well known in the art and that lubricating oil compositions suitable for use in internal combustion engines have low phosphorus content, low sulfur content, and low sulfated ash content. Therefore, the Examiner concludes that it would have been obvious for one skilled in the art to have added the triphosphate compound of Bardasz to the oil composition of Nakazato if its known imparted property was so desired, since Nakazato

teaches the addition of phosphorus-containing compounds to lubricating oil compositions.

Applicants respectfully traverse this rejection as follows.

Applicants note that Bardasz was filed on January 31, 2002, which is after the October 12, 2001 filing date of JP 2001-315941, the priority document of the present application. Enclosed herewith is a verified English translation of JP 2001-315941. Since at least formula (1) of claim 1 is fully supported in the priority document, Bardasz is removed as prior art, thus rendering any rejection based on Bardasz moot. Reconsideration and withdrawal of the § 103(a) rejection based on Nakazato in view of Bardasz are respectfully requested.

In view of the preceding Remarks and verified English translation submitted herewith, it is respectfully submitted that all of the pending claims are patentably distinct from the prior art of record and in condition for allowance. A Notice of Allowance is respectfully requested.

Respectfully submitted,

Kazuhiro Yagishita et al.

August 1, 2007
(Date)

By:

SANDRA M. KATZ

Registration No. 51,864

AKIN GUMP STRAUSS HAUER & FELD LLP

One Commerce Square

2005 Market Street, Suite 2200

Philadelphia, PA 19103-7013

Telephone: 215-965-1200

Direct Dial: 215-965-1344

Facsimile: 215-965-1210

E-Mail: skatz@akingump.com

SMK:rdh

Enclosures: Petition for Extension of Time (one-month), Verified English Translation of JP 2001-315941